

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
TERRE HAUTE DIVISION

MICHAEL L. WATSON,)	
)	
Petitioner,)	
)	
v.)	No. 2:22-cv-00420-JPH-MG
)	
WARDEN,)	
)	
Respondent.)	

**ORDER DISMISSING PETITION FOR A WRIT OF HABEAS CORPUS
AND DENYING CERTIFICATE OF APPEALABILITY**

On October 6, 2022, the Court directed the petitioner Michael Watson to explain why his petition for a writ of habeas corpus should not be dismissed for failure to exhaust state court remedies. Dkt. 4. The deadline has passed without response from Mr. Watson. Therefore, his petition is dismissed without prejudice for failure to exhaust state court remedies.

In addition, the Court finds that a certificate of appealability shall not issue. "A state prisoner whose petition for a writ of habeas corpus is denied by a federal district court does not enjoy an absolute right to appeal." *Buck v. Davis*, 137 S. Ct. 759, 773 (2017). Instead, a state prisoner must first obtain a certificate of appealability. *See* 28 U.S.C. § 2253(c)(1). "A certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Rule 11(a) of the Rules Governing Section 2254 Proceedings in the United States District Courts requires the district court to "issue or deny a certificate of appealability when it enters a final order adverse to the applicant." The petitioner has not shown that he has exhausted state court remedies, nor that state court remedies are not available to him. Jurists of reason would not disagree that the petition must be dismissed under these circumstances and nothing about the claim deserves encouragement to proceed further. *See Flores-*

Ramirez v. Foster, 811 F.3d 861, 865 (7th Cir. 2016) (citing *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)). The Court therefore **denies** a certificate of appealability.

Mr. Watson's petition is **dismissed without prejudice**. Final judgment consistent with this Order shall now issue.

SO ORDERED.

Date: 11/21/2022



James Patrick Hanlon
United States District Judge
Southern District of Indiana

Distribution:

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WABASH VALLEY CORRECTIONAL FACILITY - Inmate Mail/Parcels
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